

REMARKS/ARGUMENTS

After entry of this amendment, claims 1-16 are pending in the subject application. Applicant has amended claims 1, 2, 6, and 12 in order to further define and distinctly claim the subject matter which Applicant regards as the invention. Applicant has cancelled claims 3, 5, 7-9, and 13-14. Applicant respectfully requests the Examiner reconsider and withdraw the rejections and objections cited in the Office Action.

The Examiner objected to the specification for the following informalities: (1) on page 4, line 13, the Examiner requests that the first occurrence of the word “and” be deleted, and (2) on page 6, line 21, the Examiner requests that the word “programed” be changed to - - programmed - - . Applicant has hereby amended the specification by deleting the first occurrence of the word “and” and changing the word “programed” to - - programmed - - in the aforementioned sections of the specification . Therefore, Applicant respectfully requests the Examiner withdraw the objection to the specification.

The Examiner rejected claims 1-3, 6-8, 10-13, 15, and 16 under 35 U.S.C. § 102(b) as being anticipated by Boykin, et al., United States Patent No. 5,103,078. The Examiner asserts that Boykin, et al. discloses an apparatus for programmably controlling a hot water heater and includes a control means (30) in communication with the water heater (70), a programmable timer (314) coupled to the control means and establishes when the control means will engage/disengage, a power supply means (80) which supplies power to the timer and control means, a solenoid (as seen in column 7, lines 9-25 of the Boykin, et al. reference) communicates with a gas fuel source in response to the

programmed controller, a thermopile (614) coupled to the programmable timer and controller, an electrical circuit (50, 60), and an actuator (811) (as seen in column 7, lines 9-25 and lines 45-47).

Applicant respectfully notes that Boykin, et al. discloses a conventional power source in powering its programmable hot water heater control method. Boykin does not teach, suggest, nor disclose any alternative power sources. As a matter of fact, Boykin suggests that a battery backup may be utilized to maintain the program instructions during a loss of power. For instance:

“In an alternate embodiment of the current device, the capacity for the device 10 to maintain its program instructions during a short power loss may optionally be operated by a battery backup (not shown).” (Col. 12, Lines 10-14).

The subject application discloses the use of a thermopile 54. The Examiner cited thermostat 614 in Boykin, et al. as a thermopile. However, Boykin, et al. describes thermostat 614 in conventional terms, that is, turning something “on” or “off” upon the thermostat reaching a predetermined temperature. The thermopile 54 in the subject application acts as a millivolt generator to provide power to the circuitry of the programmable controller. Thermopile 54 allows the apparatus to operate without the need of an external power source. This is advantageous in that an electrical power source need not be led to the hot water heater. In addition, the thermopile 54 works as a safety device because when the pilot is extinguished, the thermopile does not generate power thereby automatically disengaging the solenoid. With the solenoid disengaged, natural gas cannot be fed to the burner. Boykin, et al. does not disclose, suggest, nor teach a thermopile for providing power to the circuitry of a programmable controller, and therefore, Applicant has amended the claims to specify a thermopile acting as a power source for powering the electrical circuitry of the hot water heater. Applicant respectfully requests that the Examiner reconsider and withdraw the 35 U.S.C. § 102(b) rejections to claims 1-3, 6-8, 10-13, 15, and 16 in light of Boykin, et al.

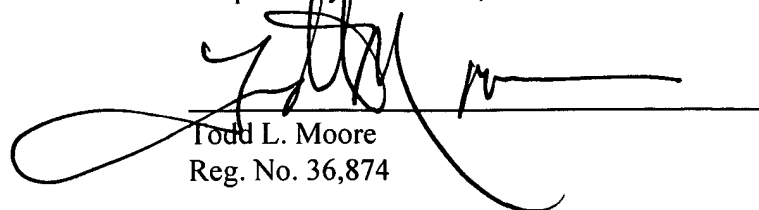
The Examiner rejected claims 5, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Boykin, et al. The Examiner contends that Boykin, et al. discloses the claimed invention except for the specifics of the electrical power supply. The Examiner further contends that it would have been an obvious matter of design choice to modify the teachings of Boykin, et al. to provide a 110/120 volt electrical power supply source, since the Examiner asserts that the Applicant has not disclosed that having this particular power source solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill. The Examiner further notes that it appears that the claimed feature does not distinguish the invention over similar features in the prior art since the Examiner asserts that the water heater of Boykin, et al. will perform the invention as claimed by the Applicant with any of various power supplies.

Applicant has cancelled claims 5, 9, and 14, and therefore, the Examiner's 35 U.S.C. § 103(a) rejection is moot. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the 35 U.S.C. § 103(a) rejections to claims 5, 9, and 14.

For the foregoing reasons and in light of the amendments, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections and objections to the above-noted claims and allow the claims to proceed to issue.

If the Examiner has any questions or comments regarding this matter, Applicant's Attorney may be reached at (734) 662-0270 or by electronic mail at tlmyb@aol.com.

Respectfully Submitted,



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